

AMENDED IN ASSEMBLY JUNE 11, 2002  
AMENDED IN ASSEMBLY APRIL 9, 2002  
AMENDED IN ASSEMBLY MARCH 18, 2002  
AMENDED IN SENATE MAY 1, 2001

**SENATE BILL**

**No. 976**

**Introduced by Senator Polanco**

February 23, 2001

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An act to add Chapter 1.5 (commencing with Section 14025) to Division 14 of the Elections Code, relating to voting rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 976, as amended, Polanco. Elections: rights of voters.

Existing law provides for political subdivisions that encompass areas of representation within the state. With respect to these areas, public officials are generally elected by all of the voters of the political subdivision (at-large) or from districts formed within the political subdivision (district-based).

Existing law generally allows the voters of the entire political subdivision to determine whether the elected public officials are elected by divisions or by the entire political subdivision.

This bill would provide that an at-large method of election, as defined, may not be imposed or applied in a manner that results in the dilution or abridgment of the right of registered voters who are members of a protected class, as defined, by impairing their ability to elect candidates of their choice or to influence the outcome of an election.

This bill would provide that a violation of its provisions shall be established if it is shown that racially polarized voting, as defined, occurs in elections for governing board members of a political subdivision, among other things. It would provide that an intent to discriminate against a protected class, as defined, is not required to establish a violation of this bill.

This bill would authorize a court to impose appropriate remedies, including district-based elections, and to award a prevailing nonstate or nonlocal government plaintiff party reasonable attorney's fees and expenses consistent with specified case law as part of the costs.

This bill would permit a member of a protected class to file an action pursuant to this bill under specified circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 1.5 (commencing with Section 14025)  
2 is added to Division 14 of the Elections Code, to read:

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4 CHAPTER 1.5. RIGHTS OF VOTERS

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6 14025. This act shall be known and may be cited as the  
7 California Voting Rights Act of 2001.

8 14026. As used in this chapter:

9 (a) "At-large method of election" means any of the following  
10 methods of electing members to the governing body of a political  
11 subdivision:

12 (1) One in which the voters of the entire jurisdiction elect the  
13 members to the governing body.

14 (2) One in which the candidates are required to reside within  
15 given areas of the jurisdiction and the voters of the entire  
16 jurisdiction elect the members to the governing body.

17 (3) One which combines at-large elections with district-based  
18 elections.

19 (b) "District-based elections" means a method of electing  
20 members to the governing body of a political subdivision in which  
21 the candidate must reside within an election district that is a  
22 divisible part of the political subdivision and is elected only by  
23 voters residing within that election district.



(c) “Political subdivision” means a geographic area of representation created for the provision of government services, including, but not limited to, a city, a school district, a community college district, or other district organized pursuant to state law.

(d) “Protected class” means a class of voters who are members of a race, color or language minority group, as this class is referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).

(e) “Racially polarized voting” means voting in which there is a difference, *as defined in case law regarding enforcement of the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.)*, in the choice of candidates or other electoral choices that are preferred by voters in ~~the~~ a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.

14027. An at-large method of election may not be imposed or ~~applied in a manner that results in the dilution or the abridgment of the rights of voters who are members of the protected class, as defined in Section 14026, by impairing their ability to elect candidates of their choice or their ability to influence the outcome of an election.~~ *applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class, as defined pursuant to Section 14026.*

14028. (a) A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision. Elections conducted prior to the filing of an action pursuant to Section 14027 and this section are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.

(b) The occurrence of racially polarized voting shall be determined from examining results of elections in which

1 ~~candidates are members~~ *at least one candidate is a member* of a  
2 protected class or elections involving ballot measures, or other  
3 electoral choices that affect the rights and privileges of members  
4 of ~~the a~~ protected class. One circumstance that may be considered  
5 in determining a violation of Section 14027 and this section is the  
6 extent to which candidates who are members of a protected class  
7 and who are preferred by voters of the protected class, as  
8 determined by an analysis of voting behavior, have been elected  
9 to the governing body of a political subdivision that is the subject  
10 of an action based on Section 14027 and this section. ~~Elections in~~  
11 ~~multi-seat at-large~~ *In multi-seat at-large election* districts, where  
12 the number of candidates who are members of a protected class is  
13 fewer than the number of seats available, the relative groupwide  
14 support received by candidates from members of ~~the a~~ protected  
15 class shall be the basis for the racial polarization analysis.

16 (c) The fact that members of a protected class are not  
17 geographically compact or concentrated may not preclude a  
18 finding of racially polarized voting, or a violation of Section  
19 14027 and this section, but may be a factor in determining an  
20 appropriate remedy.

21 (d) Proof of an intent on the part of the voters or elected  
22 officials to discriminate against a protected class is not required.

23 (e) Other factors such as the history of discrimination, the use  
24 of electoral devices or other voting practices or procedures that  
25 may enhance the dilutive effects of at-large elections, denial of  
26 access to those processes determining which groups of candidates  
27 will receive financial or other support in a given election, the  
28 extent to which members of ~~the a~~ protected class bear the effects  
29 of past discrimination in areas such as education, employment, and  
30 health, which hinder their ability to participate effectively in the  
31 political process, and the use of overt or subtle racial appeals in  
32 political campaigns are probative, but not necessary factors to  
33 establish a violation of Section 14027 and this section.

34 14029. Upon a finding of a violation of Section 14027 and  
35 Section 14028, the court shall implement appropriate remedies,  
36 including the imposition of district-based elections, that are  
37 tailored to remedy the violation.

38 14030. In any action to enforce Section 14027 and Section  
39 14028, the court shall allow the prevailing plaintiff party, other  
40 than the state or political subdivision thereof, a reasonable

1 attorney's fee consistent with the standards established in Serrano  
2 v. Priest (1977) 20 Cal.3d 25, ~~including pages 48 and 49~~ 48-49,  
3 and litigation expenses including, but not limited to, expert  
4 witness fees and expenses as part of the costs. Prevailing defendant  
5 parties shall not recover any costs, unless the court finds the action  
6 to be frivolous, unreasonable, or without foundation.

7 14031. This chapter is enacted to implement the guarantees of  
8 Section 7 of Article I and of Section 2 of Article II of the California  
9 Constitution.

10 14032. Any voter who is a member of ~~the~~ *a* protected class and  
11 who resides in a political subdivision ~~that is the subject of an action~~  
12 ~~filed pursuant to~~ *where a violation of* Sections 14027 and 14028  
13 *is alleged* may file an action pursuant to those sections in the  
14 superior court of the county in which the political subdivision is  
15 located.

